

## PAROLE COMMISSION PHASEOUT ACT OF 1996

SEPTEMBER 16, 1996.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HYDE, from the Committee on the Judiciary,  
submitted the following

### R E P O R T

[To accompany S. 1507]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the Act (S. 1507) to provide for the extension of the Parole Commission to oversee cases of prisoners sentenced under prior law, to reduce the size of the Parole Commission, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the Act as amended do pass.

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### THE AMENDMENT

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Parole Commission Phaseout Act of 1996”.

**SEC. 2. EXTENSION OF PAROLE COMMISSION.**

(a) **IN GENERAL.**—For purposes of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat. 2032) as it related to chapter 311 of title 18, United States Code, and the Parole Commission, each reference in such section to “ten years” or “ten-year period” shall be deemed to be a reference to “fifteen years” or “fifteen-year period”, respectively.

(b) **POWERS AND DUTIES OF PAROLE COMMISSION.**—Notwithstanding section 4203 of title 18, United States Code, the United States Parole Commission may perform its functions with any quorum of Commissioners, or Commissioner, as the Commission may prescribe by regulation.

(c) **REDUCTION IN SIZE.**—

(1) Effective December 31, 1999, the total number of Commissioners of the United States Parole Commission shall not be greater than 2. To the extent necessary to achieve this reduction, the Commissioner or Commissioners least senior in service shall cease to hold office.

(2) Effective December 31, 2001, the United States Parole Commission shall consist only of that Commissioner who is the Chairman of the Commission;

(3) Effective when the Commission consists of only one Commissioner—

(A) that Commissioner (or in the Commissioner’s absence, the Attorney General) may delegate to one or more hearing examiners the powers set forth in paragraphs (1) through (4) of section 4203(b) of title 18, United States Code; and

(B) decisions made pursuant to such delegation shall take effect when made, but shall be subject to review and modification by the Commissioner.

**SEC. 3. REPORTS BY THE ATTORNEY GENERAL.**

(a) **IN GENERAL.**—Beginning in the year 1998, the Attorney General shall report to the Congress not later than May 1 of each year through the year 2002 on the status of the United States Parole Commission. Unless the Attorney General, in such report, certifies that the continuation of the Commission is the most effective and cost-efficient manner for carrying out the Commission’s functions, the Attorney General shall include in such report an alternative plan for a transfer of the Commission’s functions to another entity.

(b) **TRANSFER WITHIN THE DEPARTMENT OF JUSTICE.**—

(1) **EFFECT OF PLAN.**—If the Attorney General includes such a plan in the report, and that plan provides for the transfer of the Commission’s functions and powers to another entity within the Department of Justice, such plan shall take effect according to its terms on November 1 of that year in which the report is made, unless Congress by law provides otherwise. In the event such plan takes effect, all laws pertaining to the authority and jurisdiction of the Commission with respect to individual offenders shall remain in effect notwithstanding the expiration of the period specified in section 2 of this Act.

(2) **CONDITIONAL REPEAL.**—Effective on the date such plan takes effect, paragraphs (3) and (4) of section 235(b) of the Sentencing Reform Act of 1984 (98 Stat 2032) are repealed.

**SEC. 4. REPEAL.**

Section 235(b)(2) of the Sentencing Reform Act of 1984 (98 Stat. 2032) is repealed.

**PURPOSE AND SUMMARY**

The United States Parole Commission is currently set to expire on November 1, 1997. S. 1507, the “Parole Commission Phaseout Act,” would extend the United States Parole Commission for an additional five years.

S. 1507 also requires the Attorney General to report to Congress every year on the progress of the phaseout, and it directs the Attorney General to suggest an alternative plan for a more cost-effective and efficient manner to carry out the Parole Commission’s func-

tions. S. 1507 also mandates a reduction in the number of Commissioners.

#### BACKGROUND AND NEED FOR THE LEGISLATION

In the Sentencing Reform Act of 1984, (Pub. L. 98-473), Congress eliminated eligibility for parole for all federal offenders whose crimes were committed on or after November 1, 1987. To handle the prisoners who had committed crimes before November 1, 1987, so called "old law" prisoners, Congress continued the Parole Commission until November 1, 1992. Because of the large number of "old law" prisoners still in prison by 1992, and because the Sentencing Reform Act did not make any provisions for continuing the necessary functions of the Parole Commission beyond that date, Congress extended the life of the Parole Commission until November 1, 1997, in the Judicial Improvements Act of 1990, (Pub. L. 101-650). Currently, the Parole Commission is set to expire on that date, and S. 1507, the "Parole Commission Phaseout Act," would extend the life of the Parole Commission for an additional five years.

At the end of fiscal year 1996, there will still be approximately 6,700 parole-eligible, "old law" defendants in the federal system. Constitutional requirements, specifically the ex post facto clause, necessitate the extension of the Commission, or the establishment of a similar entity authorized by statute to perform its functions. Otherwise, those remaining "old law" offenders will file habeas corpus petitions, seeking release on the grounds that their right to be considered for parole had been unconstitutionally eliminated. If such petitions were successful, public safety may be jeopardized by the release of dangerous criminals.

The Committee has also determined that the most cost-efficient approach at the present time for considering parole applications for federal prisoners is to use the Parole Commission's resources.

#### HEARINGS

The Committee's Subcommittee on Crime held one day of hearings on S. 1507 on June 6, 1996. Testimony was received from three witnesses: Chairman Edward F. Reilly, representing the United States Parole Commission, Robert S. Litt, Deputy Assistant Attorney General, representing the Department of Justice, and Judge Richard J. Arcara, representing the Judicial Conference of the United States. Additional material was submitted by the United States Marshals Service.

#### COMMITTEE CONSIDERATION

On July 10, 1996, the Subcommittee on Crime met in open session and ordered favorably reported the bill S. 1507 by a voice vote, a quorum being present. On September 11, 1996, the Full Committee met in open session and ordered reported favorably the bill S. 1507 without amendment by a voice vote, a quorum being present.

#### VOTE OF THE COMMITTEE

There were no recorded votes.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Reform and Oversight were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(C)(3) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, S. 1507, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, September 16, 1996.*

Hon. HENRY J. HYDE,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1507, the Parole Commission Phaseout Act of 1996, as ordered reported by the House Committee on the Judiciary on September 11, 1996. CBO estimates that enacting this act would result in no significant impact on the federal budget. S. 1507 would not affect direct spending or receipts, so pay-as-you-go procedures would not apply. The act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) and would have no effect on the budgets of state, local, or tribal governments.

In 1987, the federal government eliminated parole for persons convicted of federal crimes and the United States Parole Commission was scheduled to be phased out over five years. A subsequent law extended the commission to 1997. S. 1507 would extend the commission for an additional five years, providing for a gradual reduction in size and phaseout by the year 2002.

The United States Parole Commission has parole jurisdiction over all eligible federal prisoners and continuing jurisdiction over those released on parole. The commission projects that at the end of fiscal year 1997 there will be an incarcerated caseload of about 6,000 and a parolee caseload of about 10,000. These numbers have

declined over the past several years and will continue to decrease, but substantial numbers will remain through the end of the decade and thereafter. Thus, even if the commission is terminated as expected under current law, another federal agency (such as the Department of Justice) would have to assume the paroling function and its inherent costs.

The United States Parole Commission received an appropriation of \$5.4 million for fiscal year 1996, down from \$7.5 million in 1995 and \$9.1 million in 1994. Steadily decreasing budgets are anticipated for the commission's declining workload. Some requirements for the paroling function will continue beyond 1997, however, when the commission is currently scheduled to terminate. The costs of completing that workload are likely to be roughly the same whether the paroling function is conducted by the commission or another agency. Thus, CBO estimates that enacting S. 1507 and continuing the commission would not result in any significant costs to the federal government, relative to current law.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz.

Sincerely,

JUNE E. O'NEILL, *Director*.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that S. 1507 will have no significant inflationary impact on prices and costs in the national economy.

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1. SHORT TITLE

This section states that the short title of the bill is the "Parole Commission Phaseout Act of 1996."

##### SEC. 2. EXTENSION OF THE PAROLE COMMISSION

Subsection (a) of this section extends the Parole Commission for five years beyond its scheduled expiration date of November 1, 1997.

Subsection (b) provides that the Commission may perform its functions with any quorum of Commissioners or Commissioner, as the Commission may prescribe by regulation. This recognizes that, with the downsizing of the Commission and reduction in the number of Commissioners, it will not be practical, or in some cases even possible, to make decisions under the procedures prescribed for the Commission when it was enacted in 1976. The Committee expects the Commission will establish, by regulation, procedures that will include a provision for administrative appeal or reconsideration of its decisions.

Subsection (c) provides for the downsizing of the number of Commissioners to no more than two effective December 31, 1999, and to no more than one (the Chair of the Commission), on December 31, 2001. Upon the reduction of the number of Commissioners to a single Commissioner, decision-making authority may be dele-

gated to hearing examiners. A decision pursuant to this delegated authority shall take effect when made, but shall be subject to reconsideration by the Commissioner.

#### SEC. 3. REPORTS BY THE ATTORNEY GENERAL

Subsection (a) provides that the Attorney General shall report to Congress by May 1 of each year on the status of the United States Parole Commission, and to certify that the continuation of the Commission is the most cost-effective and efficient method for carrying out the Commission's functions. If the Attorney General cannot so certify, then an alternative plan for transferring the Commission's functions to another entity must be included.

Subsection (b) provides that if the Attorney General submits a plan to transfer the Commission's functions and powers to another entity within the Department of Justice, such plan shall take effect according to its term unless Congress by law provides otherwise. It is the Committee's intent, and this subsection further provides, that all laws pertaining to the authority and jurisdiction of the Commission with respect to individual offenders will remain in effect notwithstanding the expiration of the fifteen-year period specified in Section 2 of this Act. Such offenders will continue to serve their sentences subject to all applicable penalty provisions. Additionally, this subsection provides that, upon the taking effect of such plan, paragraphs (3) and (4) of § 235(b) of the Sentencing Reform Act of 1984 are repealed.

It is the Committee's strong desire that the Attorney General propose a reassignment of the Parole Commission's duties at the earliest date possible. The Committee hopes that further legislation on this issue will not be necessary.

#### SEC. 4. REPEAL

This section repeals subsection (b)(2) of the Sentencing Reform Act of 1894, a provision which extended the term of any Parole Commissioner holding office on November 1, 1987, for the duration of the Commission's existence. This repeal restores the twelve-year limitation on the service of Parole Commissioners in § 4202 of title 18, United States Code. The repeal of this subsection is necessary for the orderly downsizing of the Parole Commission. It will reduce the number of Parole Commissioners currently serving from four to three in October, 1996.

#### AGENCY VIEWS

U.S. DEPARTMENT OF JUSTICE,  
U.S. PAROLE COMMISSION,  
*Chevy Chase, MD, July 22, 1996.*

Hon. BILL MCCOLLUM,  
*Chairman, Subcommittee on Crime, Committee on the Judiciary,*  
*Washington, DC.*

DEAR CONGRESSMAN MCCOLLUM: I deeply appreciate the consideration that the Subcommittee on Crime has given to the U.S. Parole Commission and the personal interest taken by you and your staff in resolving this issue in the present session of Congress. I

fully support the Amendment in the Nature of Substitute to S. 1507 that you introduced and the Subcommittee approved.

I now ask your further assistance in ensuring that the full Committee approves this legislation at the earliest opportunity. I have written to Chairman Hyde asking that this be done, and I stand ready to assist in any way needed.

Sincerely,

EDWARD F. REILLY, Jr., *Chairman.*

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets and existing law in which no change is proposed is shown in roman):

#### SECTION 235 OF THE SENTENCING REFORM ACT OF 1984

##### EFFECTIVE DATE

SEC. 235. (a) \* \* \*

(b)(1) \* \* \*

[(2) Notwithstanding the provisions of section 4202 of title 18, United States Code, as in effect on the day before the effective date of this Act, the term of office of a Commissioner who is in office on the effective date is extended to the end of the five-year period after the effective date of this Act.]

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